



City of Seattle

Gregory J. Nickels, Mayor
Department of Design, Construction and Land Use
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2203259
Applicant Name: Gary M. Abrahams, T-Mobile Wireless Inc
Address of Proposal: 2900 South King Street

SUMMARY OF PROPOSED ACTION

Master Use permit to establish use for future construction of a minor communication utility (T-Mobile Wireless) consisting of three panel antennas (three-sector, one antenna per sector) on the roof of an existing apartment building. Project includes equipment cabinet to be located on the roof.

The following approvals are required:

Administrative Conditional Use - To allow a minor communication utility in a single family zone. Section 23.57.010D Seattle Municipal Code.

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code (SMC)

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

 ☐ DNS with conditions

 ☐ DNS involving non-exempt grading, or demolition, or
 another agency with jurisdiction.

BACKGROUND DATA

Site Description

The site is the rooftop of an existing nonconforming two story apartment building on a property located on the east side South King Street. The site is zoned Single Family 5000 however, the

subject property is used as a multifamily residence. The height of the apartment building is 29 ft. high. The site is bordered to the north, east and south by single family residences and to the west by 29th Avenue South. Vehicular access to the existing building is from 29th Avenue South. The surrounding zoning is Single Family 5000 and Neighborhood Commercial 1 with 30' height limit.

Proposal Description

The applicant proposes to install a Minor Communications Utility (T-Mobile Wireless) facility consisting of 3 sector panel antenna on the roof of an existing 29 ft. high building. The electronic equipment cabinets would also be located on the roof and screened. The existing building is 29 ft. high to the rooftop and the proposed antennas, in shrouds resembling smokestack vents, will extend to 9 ft. high from the roof base. The antennas will be concealed within a shroud which appears like a smokestack vent. The associated electronic cabinet equipment would be placed on the roof of the building. The facility would be accessed via 29th Avenue South.

Public Comments

This proposal was originally required to obtain a Council Conditional Use permit. Ordinance 120928, effective November 1, 2002, revised this requirement to be an Administrative Conditional Use. The project received revised notice of application and more than fourteen e-mails and petition comment letters were received during the public comment period which ended on February 12, 2002.

A majority of the respondents opposed the location of the subject minor communication utility, expressing their concerns about the environmental health impact associated with electromagnetic energy, wire services, visual impact and decreased property values.

Analysis: Council Conditional Use

Minor Communication utilities may be permitted in a Single Family zone by a Administrative Conditional Use when the proposal meets development standards set forth in SMC 23.57.010C and the following criteria.

1. *The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

The proposal site is located in a Single Family 5000 zone and will be sited on an existing apartment building. The existing building is 38 ft. high to the rooftop and the proposed antennas will extend to 29 ft. high. The proposed location on the existing building rooftop is the least intrusive location consistent with effectively providing service and in considering minimizing detrimental impacts and the degree of intrusiveness. At this proposed rooftop location, visual impacts of each antenna will be concealed within a shroud appearing like a smokestack vent.

The noise level is estimated to be below the ambient level of the Single Family 5000 according to the project acoustics' report. Traffic impact is not anticipated. The proposal would be compatible with uses allowed in the zone, and since no housing or structure will be removed, the proposal will not result in displacement of residential dwelling units.

As proposed, the minor communications utility will not constitute a commercial intrusion that will be substantially detrimental to the residential character of the surrounding neighborhood. The concealing of the proposed antenna in artificial chimney shrouds designed like smokestack vents and the painting of the associated cabinet equipment on the roof of the building to blend with the exterior of the building, the proposed minor communications utility would not appear obtrusive and detrimental to the residential streetscape character along 29th Avenue south.

The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable. 5. Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, the Director may grant a waiver from development standards of subsections E1b and E1C of this section and the screening requirements of Section 23.57.016. The first waiver to be considered will be reduction, then waiver from screening. Only if these waived regulations would still result in obstruction shall rooftop location be considered. Approval of a waiver shall be subject to the following criteria:

a. *The applicant shall demonstrate that the obstruction is a result of factors beyond the property owner's control, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.*

The applicant has requested a waiver from the above development standard because of the City of Seattle built environment, is beyond the property owner's control. The City of Seattle varied development pattern will, in this situation, create reception window obstruction for the proposed accessory communications device and minor communications utility that would otherwise comply with this section. For the proposed minor communication utility to function effectively and provide service, it must see above obstructions (have the ability to receive and send signals without obstruction). If the proposed is located at grade the built environment will interfere and obstruct transmissions. Therefore, strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot except the building rooftop.

b. *The applicant shall be required to use material, shape and color to minimize visual impact.*

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible in artificial chimney shrouds painted to match the same color of the existing building. It is designed to resemble smokestack vents in order to screen and camouflage the antenna location.

c. *If a waiver is sought per this subsection to permit a rooftop location, the maximum permitted height of the device shall be four (4) feet above the existing roofline or four (4) feet above the zone height limit.*

The base height limit in this single family zone is 30 ft. above existing grade or finished grade whichever is lower or average height of the or the average of the two abutting single family homes if one or both is higher than 30 ft., plus 4 ft. addition for rooftop features. The proposed application is in compliance with the applicable code. Furthermore, due to change in grade of the property topography, the existing building received a height bonus. With the height bonus calculation per section 23.86.006.C. Therefore, as measured the antenna shrouds are 26 ft. 4 inches. Based on the plans, the height, as proposed is below the 34 ft. height limit (30 ft. for building, plus 4 ft. allowed for rooftop features) allowed in Single family zone.

The proposed screening of the antennas and related equipment would mitigate the visual impact and is a condition of approval of this permit. The associated cabinet equipment will be located in the existing rooftop and will not be visible behind the screen.

Based on the above analysis the director is satisfied that the proposed request as granted will only result in partial reception window obstruction, therefore, the proposed request to locate the minor communication utility and the accessory equipment on the rooftop of an existing residential building is granted.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
 - a. *the antenna is at least one hundred feet (100') from a MIO boundary; and*
 - b. *the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay; therefore, this provision is not applicable.

d. If the proposed minor communication utility is proposed to exceed the permitted height of the zone, the applicant shall demonstrate the following: (i) The requested height is the minimum necessary for the effective functioning of the minor communication utility, and (ii) Construction of a network of minor communication utilities, that consists of a greater number of smaller less obtrusive utilities is not technically feasible.

The proposed antennas and the associated cabinet equipment will be located on the rooftop of the existing building. The proposed minor communication facility extending approximately 4 ft. above the roof line would be taller than the base height limit for this single family zone. However, due to the fact that the existing building on which it is proposed is already 29 ft. in height, additional increase in bulk, view blockage and shadow impacts are not anticipated from the extra 4 ft. extension of the proposed antennas. The 4 ft. high projection of the antenna with the cabinet equipment is the minimum necessary for effective functioning of the minor communication utility because of the existing grade and terrain change of the coverage area. Furthermore, the construction of a network of minor communication utilities, that consists of a greater number of smaller less obtrusive utilities is not technically feasible either at grade due to potential direct pedestrian interference/obstruction and vandalism, and at the top of the building

this location there would be difficulty of transmission due the grade change and existing tall deciduous and coniferous trees in the coverage area.

Due to the operational characteristics of the facility proposed, a clear line of site from the antennas in the system throughout the intended coverage area is necessary to ensure the quality of the transmission of the digital system. The strict application of the height limit would preclude the applicant from providing wireless services for the intended coverage area, which includes Madrona, east and west towards of 29th Avenue South and the Leschi. The site was chosen because its elevation and location are uniquely suited to serve the adjoining residential and commercial areas. No commercial properties were identified with sufficient elevation height to provide the coverage needed to meet the service objectives. The additional height above the zone development standard is the minimum required to place the structure on a 29 ft. tall building and obtain sufficient coverage.

The alternative would be to construct a facility at ground level or to place the facility on a 60-foot tall or more monopole. The ground level alternative is technically unfeasible and would potentially face significant citizen opposition. A monopole would be more visually intrusive than an antenna on a rooftop. According to the applicant, the literal interpretation and strict application of the Land Use Code would be that T-Mobile Wireless, Inc could not meet its federal mandate of its FCC license to provide high speed wireless internet access throughout the Seattle metropolitan area. This proposal site at this elevation is a vital link in the planned network for the Seattle Metropolitan area. Given these alternatives, the height limit extension is a minimal impact. Thus, this criterion is satisfied.

e. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

The proposed minor communication utility is not proposed for a new freestanding transmission tower. Therefore, this provision does not apply.

DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT

This application to install a minor communication utility in a Single family zone, which exceeds the height limit of the underlying zone, is **CONDITIONALLY APPROVED**.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated September 9, 2002 and supplemental information in the project file submitted by the applicant. The information in the checklist, supplemental

information, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,"* subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D), mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to increased dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; 4) blockage of streets by construction vehicles/activities; 5) conflict with normal pedestrian movement adjacent to the site; and 6) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The proposal is located within residential receptors that would be adversely impacted by construction noise. Therefore, additional discussion of noise impacts is warranted.

Construction Noise

The limitations of the Noise Ordinance (construction noise) are considered inadequate to mitigate the potential noise impacts associated with construction activities. The SEPA Policies at SMC 25.05.675 B allow the Director to limit the hours of construction to mitigate adverse noise impacts. Pursuant to this policy and because of the proximity of neighboring residential uses, the applicant will be required to limit excavation, foundation, and external construction work for this project to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. It is also recognized that there are quiet non-construction activities that can be done at any time such as, but not limited to, site security, surveillance, monitoring for weather protection, checking tarps, surveying, and walking on and around the site and structure. These types of activities are not considered construction and will not be limited by the conditions imposed on this Master Use Permit.

Other Short-Term Impacts

The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

Electro-magnetic Radiation (EMR)

The City of Seattle, in conjunction with Seattle King County Department of Public Health, has determined that Personal Communication Systems (PCS) operate at frequencies far below the Maximum Permissible Exposure standards established by the Federal Communications Commission (FCC) and therefore, pose no threat to public health. Additionally, the FCC has pre-empted State and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. Warning signs at every point of access to the transmitting antenna shall be posted with information of the existence of radiofrequency radiation.

Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

CONDITION- SEPA

During Construction

The following conditions to be enforced during construction shall be posted at the site in a location visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions shall be printed legibly on placards available from DCLU, shall be laminated with clear plastic or other weatherproofing material, and shall remain in place for the duration of the construction.

1. The applicant shall limit external construction work for this project to non-holiday weekdays between 7:30 a.m. and 6:00 p.m.

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

2. The owner(s) and/or responsible party(s) shall provide proposed Smokestack Shrouds with screening and painting of the same to blend with the color of the building.

Land Use Code Requirement (Non Appealable) Prior to Issuance of Master Use Permit

3. The owner(s) and/or responsible party(s) shall provide access and signage in accord with Section 23.57.010E4 which restrict access to minor communications utilities to authorized personnel. This shall be to the satisfaction of the Land Use Planner.

Signature: (signature on file) Date: September 29, 2003
Onum Esonu, Land Use Planner & Supervisor
Public Resource Center,
Department of Design, Construction and Land Use